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Attorneys for Defendants  
Undersheriff Paul Tanaka and Captain William Carey

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ANTHONY BROWN,  
Plaintiff,

VS.

COUNTY OF LOS ANGELES,  
SHERIFF LEROY D. BACA,  
UNDERSHERIFF PAUL TANAKA,  
CAPTAIN WILLIAM CAREY,  
LIEUTENANT GREGORY  
THOMPSON, LIEUTENANT  
STEPHEN LEAVINS, SERGEANT  
SCOTT CRAIG, SERGEANT  
MARNIELLA LONG, DEPUTY  
GERARD SMITH, DEPUTY  
MICKEY MANZO, DEPUTY JAMES  
SEXTON, individually and in their  
official capacities, and DOES 1  
through 10, inclusive,

## Defendants.

} Case No. 2:15-cv-02162-DDP-E  
}{ Honorable Dean D. Pregerson

**DEFENDANTS UNDERSHERIFF  
PAUL TANAKA AND CAPTAIN  
WILLIAM CAREY'S ANSWER TO  
PLAINTIFF'S COMPLAINT;  
DEMAND FOR JURY TRIAL**

TO THE HONORABLE COURT, ALL PARTIES, AND TO THEIR  
ATTORNEYS OF RECORD:

26 Defendants Undersheriff Paul Tanaka and Captain William Carey  
27 (“Answering Defendants”) answer to Plaintiff Anthony Brown’s Complaint  
28 (“Complaint”) for themselves alone and for no others as follows:

1       1. In answer to paragraph 1 of Plaintiff's Complaint, Answering  
2 Defendants admit that Plaintiff is attempting to assert six causes of action, all  
3 under federal law, including pursuant to 42 U.S.C. §§ 1983 and 1988 and 29  
4 U.S.C. § 701, *et seq.*

5       2. In answer to paragraph 2 of Plaintiff's Complaint, Answering  
6 Defendants admit that the Court has jurisdiction over this matter pursuant based  
7 on federal question jurisdiction pursuant to Plaintiff's claims brought under 42  
8 U.S.C. §§ 1983 and 1988, and 29 U.S.C. § 701, *et seq.*, 42 U.S.C. § 12131, *et*  
9 *seq.*, 28 U.S.C. §§ 1331 and 1343. With respect to the remaining allegations,  
10 Answering Defendants are without sufficient knowledge or information, at this  
11 time, to form a belief as to the truth of the allegations contained in said paragraph,  
12 and on that basis, deny each and every remaining allegation.

13       3. In answer to paragraph 3 of Plaintiff's Complaint, Answering  
14 Defendants admit that venue is proper in the United States District Court, Central  
15 District of California. Answering Defendants admit the incident giving rise to  
16 this lawsuit occurred in Los Angeles, California, but deny that Plaintiff was  
17 injured as a result of any conduct of Answering Defendants.

18       4. In answer to paragraph 4 of Plaintiff's Complaint, Answering  
19 Defendants are without sufficient knowledge or information to form a belief as to  
20 the truth of the allegations contained in said paragraph, and on that basis, deny  
21 each and every allegation contained therein.

22       5. In answer to paragraph 5 of Plaintiff's Complaint, Answering  
23 Defendants deny each and every allegation in said paragraph.

24       6. In answer to paragraph 6 of Plaintiff's Complaint, Answering  
25 Defendants admit that Plaintiff was an individual in the custody of the Los  
26 Angeles County Sheriff's Department for a period of time prior to and during  
27 September 2011. As to all other allegations, Answering Defendants state that the  
28 allegations are vague and ambiguous with respect to the terms "serious" and

1       “chronic,” and as such, Answering Defendants are without sufficient knowledge  
2 or information to form a belief as to the truth of the allegations contained in said  
3 paragraph. On that basis, the Answering Defendants deny each and every such  
4 allegation in said paragraph.

5              7. In answer to paragraph 7 of Plaintiff’s Complaint, Answering  
6 Defendants admit that the named defendants in this lawsuit were law enforcement  
7 officers employed with the County of Los Angeles for a period of time prior to  
8 and during September 2011. The Answering Defendants also admit that Plaintiff  
9 is suing the individual defendants in both their individual and official capacity.  
10 As to all remaining allegations in the paragraph, they are vague and ambiguous,  
11 and as such, Answering Defendants are without sufficient knowledge or  
12 information to form a belief as to the truth of the allegations contained in said  
13 paragraph. On that basis, the Answering Defendants deny each and every such  
14 allegation in said paragraph.

15              8. In answer to paragraph 8 of Plaintiff’s Complaint, Answering  
16 Defendants admit that Plaintiff is suing Does 1 through 10 in their official and  
17 individual capacities. The Answering Defendants deny each and every other  
18 allegation in that paragraph.

19              9. In answer to paragraph 9 of Plaintiff’s Complaint, Answering  
20 Defendants deny each and every allegation in said paragraph.

21              10. In answer to paragraph 10 of Plaintiff’s Complaint, Answering  
22 Defendants deny each and every allegation in said paragraph.

23              11. In answer to paragraph 11 of Plaintiff’s Complaint, Answering  
24 Defendants acknowledge that Plaintiff is realleging and incorporating by  
25 reference prior allegations, and these Answering Defendants deny said allegations  
26 to the extent previously denied.

27              12. In answer to paragraph 12 of Plaintiff’s Complaint, Answering  
28 Defendants admit Plaintiff is attempting to assert a cause of action for violation of

1 rights secured by the Eighth Amendment to the United States Constitution under  
2 42 U.S.C. §§ 1983 and 1988.

3       13. In answer to paragraph 13 of Plaintiff's Complaint, Answering  
4 Defendants deny each and every allegation in said paragraph.

5       14. In answer to paragraph 14 of Plaintiff's Complaint, Answering  
6 Defendants deny each and every allegation in said paragraph.

7       15. In answer to paragraph 15 of Plaintiff's Complaint, Answering  
8 Defendants deny each and every allegation in said paragraph.

9       16. In answer to paragraph 16 of Plaintiff's Complaint, Answering  
10 Defendants deny each and every allegation in said paragraph.

11       17. In answer to paragraph 17 of Plaintiff's Complaint, Answering  
12 Defendants deny each and every allegation in said paragraph.

13       18. In answer to paragraph 18 of Plaintiff's Complaint, Answering  
14 Defendants deny each and every allegation in said paragraph.

15       19. In answer to paragraph 19 of Plaintiff's Complaint, Answering  
16 Defendants deny each and every allegation in said paragraph.

17       20. In answer to paragraph 20 of Plaintiff's Complaint, Answering  
18 Defendants deny each and every allegation in said paragraph.

19       21. In answer to paragraph 21 of Plaintiff's Complaint, Answering  
20 Defendants deny each and every allegation in said paragraph.

21       22. In answer to paragraph 22 of Plaintiff's Complaint, Answering  
22 Defendants deny each and every allegation in said paragraph.

23       23. In answer to paragraph 23 of Plaintiff's Complaint, Answering  
24 Defendants deny each and every allegation in said paragraph.

25       24. In answer to paragraph 24 of Plaintiff's Complaint, Answering  
26 Defendants deny each and every allegation in said paragraph.

27       25. In answer to paragraph 25 of Plaintiff's Complaint, Answering  
28 Defendants deny each and every allegation in said paragraph.

1       26. In answer to paragraph 26 of Plaintiff's Complaint, Answering  
2 Defendants deny each and every allegation in said paragraph.

3       27. In answer to paragraph 27 of Plaintiff's Complaint, Answering  
4 Defendants deny each and every allegation in said paragraph.

5       28. In answer to paragraph 28 of Plaintiff's Complaint, Answering  
6 Defendants deny each and every allegation in said paragraph.

7       29. In answer to paragraph 29 of Plaintiff's Complaint, Answering  
8 Defendants acknowledge that Plaintiff is realleging and incorporating by  
9 reference prior allegations, and these Answering Defendants deny said allegations  
10 to the extent previously denied.

11      30. In answer to paragraph 30 of Plaintiff's Complaint, Answering  
12 Defendants deny each and every allegation in said paragraph.

13      31. In answer to paragraph 31 of Plaintiff's Complaint, Answering  
14 Defendants deny each and every allegation in said paragraph.

15      32. In answer to paragraph 32 of Plaintiff's Complaint, Answering  
16 Defendants deny each and every allegation in said paragraph.

17      33. In answer to paragraph 33 of Plaintiff's Complaint, Answering  
18 Defendants deny each and every allegation in said paragraph.

19      34. In answer to paragraph 34 of Plaintiff's Complaint, Answering  
20 Defendants deny each and every allegation in said paragraph.

21      35. In answer to paragraph 35 of Plaintiff's Complaint, Answering  
22 Defendants deny each and every allegation in said paragraph.

23      36. In answer to paragraph 36 of Plaintiff's Complaint, Answering  
24 Defendants deny each and every allegation in said paragraph.

25      37. In answer to paragraph 37 of Plaintiff's Complaint, Answering  
26 Defendants deny each and every allegation in said paragraph.

27      38. In answer to paragraph 38 of Plaintiff's Complaint, Answering  
28 Defendants deny each and every allegation in said paragraph.

1       39. In answer to paragraph 39 of Plaintiff's Complaint, Answering  
2 Defendants acknowledge that Plaintiff is realleging and incorporating by  
3 reference prior allegations, and these Answering Defendants deny said allegations  
4 to the extent previously denied.

5       40. In answering paragraph 40 of Plaintiff's Complaint, Answering  
6 Defendants admit that Plaintiff was in the custody of the Los Angeles County  
7 Sheriff's Department for a period of time in and/or around August and September  
8 2011. The remaining allegations of paragraph 40 are vague and ambiguous, such  
9 that the Answering Defendants are without sufficient knowledge to form a belief  
10 as to the truth of the matters, and on that basis, deny each and every such  
11 allegation.

12      41. In answer to paragraph 41 of Plaintiff's Complaint, Answering  
13 Defendants admit that Plaintiff's medical records at the jail may have contained  
14 information about his medical conditions, if any. As to all other allegations in  
15 paragraph 41, Answering Defendants deny each and every allegation in said  
16 paragraph.

17      42. In answer to paragraph 42 of Plaintiff's Complaint, Answering  
18 Defendants deny each and every allegation in said paragraph.

19      43. In answer to paragraph 43 of Plaintiff's Complaint, Answering  
20 Defendants deny each and every allegation in said paragraph.

21      44. In answer to paragraph 44 of Plaintiff's Complaint, Answering  
22 Defendants deny each and every allegation in said paragraph.

23      45. In answer to paragraph 45 of Plaintiff's Complaint, Answering  
24 Defendants deny each and every allegation in said paragraph.

25      46. In answer to paragraph 46 of Plaintiff's Complaint, Answering  
26 Defendants deny each and every allegation in said paragraph.

27      47. In answer to paragraph 47 of Plaintiff's Complaint, Answering  
28 Defendants acknowledge that Plaintiff is realleging and incorporating by

1 reference prior allegations, and these Answering Defendants deny said allegations  
2 to the extent previously denied.

3       48. In answer to paragraph 48 of Plaintiff's Complaint, Answering  
4 Defendants admit Plaintiff is attempting to assert a cause of action for retaliation  
5 in violation of his First Amendment rights.

6       49. In answer to paragraph 49 of Plaintiff's Complaint, Answering  
7 Defendants deny each and every allegation in said paragraph.

8       50. In answer to paragraph 50 of Plaintiff's Complaint, Answering  
9 Defendants deny each and every allegation in said paragraph.

10      51. In answer to paragraph 51 of Plaintiff's Complaint, Answering  
11 Defendants deny each and every allegation in said paragraph.

12      52. In answer to paragraph 52 of Plaintiff's Complaint, Answering  
13 Defendants deny each and every allegation in said paragraph.

14      53. In answer to paragraph 53 of Plaintiff's Complaint, Answering  
15 Defendants deny each and every allegation in said paragraph.

16      54. In answer to paragraph 54 of Plaintiff's Complaint, Answering  
17 Defendants deny each and every allegation in said paragraph.

18      55. In answer to paragraph 55 of Plaintiff's Complaint, Answering  
19 Defendants deny each and every allegation in said paragraph.

20      56. In answer to paragraph 56 of Plaintiff's Complaint, Answering  
21 Defendants deny each and every allegation in said paragraph.

22      57. In answer to paragraph 57 of Plaintiff's Complaint, Answering  
23 Defendants acknowledge that Plaintiff is realleging and incorporating by  
24 reference prior allegations, and these Answering Defendants deny said allegations  
25 to the extent previously denied.

26      58. In answer to paragraph 58 of Plaintiff's Complaint, Answering  
27 Defendants admit Plaintiff is attempting to allege a claim for violation of 29  
28 U.S.C. § 701, *et seq.*

1       59. In answer to paragraph 59 of Plaintiff's Complaint, Answering  
2 Defendants state that 29 U.S.C. § 794(a) does not define the meaning of "federal  
3 financial assistance." Therefore, the allegations in this paragraph are vague and  
4 ambiguous such that the Answering Defendants are without sufficient knowledge  
5 to form a belief as to the truth of the allegations.

6       60. In answer to paragraph 60 of Plaintiff's Complaint, Answering  
7 Defendants state that they are without sufficient knowledge to form a belief as to  
8 the truth of the matters asserted, and on that basis, they deny and every allegation  
9 in said paragraph.

10      61. In answer to paragraph 61 of Plaintiff's Complaint, the Answering  
11 Defendants state that they are without sufficient knowledge to form a belief as to  
12 the truth of the matters asserted, and on that basis, they deny and every allegation  
13 in said paragraph.

14      62. In answer to paragraph 62 of Plaintiff's Complaint, Answering  
15 Defendants state that 29 U.S.C. § 794(a) does not define the meaning of  
16 "programs or activities." Therefore, the allegations in this paragraph are vague  
17 and ambiguous such that the Answering Defendants are without sufficient  
18 knowledge to form a belief as to the truth of the allegations.

19      63. In answer to paragraph 63 of Plaintiff's Complaint, Answering  
20 Defendants state that the allegations in said paragraph are so vague and ambiguous  
21 such that are without sufficient knowledge to form a belief on the truth of the  
22 matters stated, and on that basis, deny each and every allegation in said paragraph.

23      64. In answer to paragraph 64 of Plaintiff's Complaint, Answering  
24 Defendants deny each and every allegation in said paragraph.

25      65. In answer to paragraph 65 of Plaintiff's Complaint, Answering  
26 Defendants deny each and every allegation in said paragraph.

27      66. In answer to paragraph 66 of Plaintiff's Complaint, Answering  
28 Defendants deny each and every allegation in said paragraph.

1       67. In answer to paragraph 67 of Plaintiff's Complaint, Answering  
2 Defendants acknowledge that Plaintiff is realleging and incorporating by  
3 reference prior allegations, and these Answering Defendants deny said allegations  
4 to the extent previously denied.

5       68. In answer to paragraph 68 of Plaintiff's Complaint, Answering  
6 Defendants admit Plaintiff is attempting to assert a cause of action for conspiracy  
7 under federal law to violate his civil rights.

8        69. In answer to paragraph 69 of Plaintiff's Complaint, Answering  
9 Defendants deny each and every allegation in said paragraph.

10       70. In answer to paragraph 70 of Plaintiff's Complaint, Answering  
11 Defendants deny each and every allegation in said paragraph.

12       71. In answer to paragraph 71 of Plaintiff's Complaint, Answering  
13 Defendants deny each and every allegation in said paragraph.

## **AFFIRMATIVE DEFENSES**

## **FIRST AFFIRMATIVE DEFENSE**

18       72. The individual Defendants are entitled to qualified immunity since  
19 the applicable law was not clearly established and since a reasonable official in  
20 their positions could have believed their conduct was lawful.

## **SECOND AFFIRMATIVE DEFENSE**

22       73. Plaintiff's Complaint fails to state a cause of action against  
23 Defendants.

### **THIRD AFFIRMATIVE DEFENSE**

25 || 74. Plaintiff's claims are barred by the doctrine of judicial estoppel.

#### **FOURTH AFFIRMATIVE DEFENSE**

27 ||| 75. Plaintiff's claims are barred by the doctrine of equitable estoppel.

28 | //

## **FIFTH AFFIRMATIVE DEFENSE**

2           76. Plaintiff's claims are barred by the doctrine of collateral estoppel/res  
3 judicata.

## SIXTH AFFIRMATIVE DEFENSE

5       77. Plaintiff's suit and the relief sought therein are barred by the Prison  
6 Litigation Reform Act, i.e., 42 U.S.C. § 1997e et seq.

## **SEVENTH AFFIRMATIVE DEFENSE**

8 ||| 78. Plaintiff's claims are barred by the doctrine of unclean hands.

## **EIGHTH AFFIRMATIVE DEFENSE**

10 ||| 79. Plaintiff's claims are barred by the doctrine of laches.

## NINTH AFFIRMATIVE DEFENSE

12 || 80. Plaintiff failed to mitigate his damages.

## **TENTH AFFIRMATIVE DEFENSE**

14        81. Plaintiff's Complaint fails to state a cause of action against these  
15 Defendants because, pursuant to *Monell v. Department of Social Services of the*  
16 *City of New York*, 436 U.S. 658 (1978), there can be no recovery for a federal  
17 civil rights violation where there is no constitutional deprivation occurring  
18 pursuant to governmental policy or custom.

## **ELEVENTH AFFIRMATIVE DEFENSE**

20        82. Pursuant to California Government Code § 818, and *Newport City v.*  
21 *Fact Concerts, Inc.*, 453 U.S. 247 (1981), the public entity Defendants are not  
22 liable for exemplary or punitive damages in any sum, or at all.

## **TWELFTH AFFIRMATIVE DEFENSE**

24       83. The County Sheriff and his subordinates act on behalf of the state,  
25 not the County, when engaged in law enforcement activities. Consequently, any  
26 policies, practices, or customs alleged in the Complaint are not those of the  
27 County.

28 | //

## **THIRTEENTH AFFIRMATIVE DEFENSE**

2        84. Defendants are immune from liability under the Eleventh  
3 Amendment to the Constitution of the United States.

## **FOURTEENTH AFFIRMATIVE DEFENSE**

5 Plaintiff's Complaint does not state facts sufficient to constitute a  
6 cause of action against these Defendants under 42 U.S.C. § 1983 because  
7 pursuant to *Parratt v. Taylor*, 451 U.S. 527 (1981), simple negligence is not a  
8 federal civil rights violation.

## **FIFTEENTH AFFIRMATIVE DEFENSE**

10           86. Defendants are entitled to quasi-judicial immunity.

## SIXTEENTH AFFIRMATIVE DEFENSE

12        87. A conspiracy cannot be generally alleged in an action brought under  
13 the Civil Rights Act.

## **SEVENTEENTH AFFIRMATIVE DEFENSE**

15       88. Under the Civil Rights Act, where intent is an element of the claim,  
16 the facts must be alleged in the Complaint with specificity.

## **EIGHTEENTH AFFIRMATIVE DEFENSE**

18        89. That the damages, if any, should be in direct proportion to the fault  
19 of these Defendants, if any, as provided by California Civil Code §§ 1431 to  
20 1431.5.

## NINETEENTH AFFIRMATIVE DEFENSE

22       90. To the extent that Plaintiff suffered any detriment, such detriment  
23 was caused or contributed to by Plaintiff's negligence and damage, if any, should  
24 be reduced in direct proportion to his fault.

## **TWENTIETH AFFIRMATIVE DEFENSE**

26       91. The injuries and damages alleged by Plaintiff were proximately caused  
27 by the negligence, conduct, and liability of other persons or entities, and these  
28 Defendants request that an allocation of such negligence, conduct, and liability be

1 made among such other persons or entities and that, if any liability is found on the  
2 part of these Defendants, judgment against these Defendants be only in an amount  
3 which is proportionate to the extent and percentage by which these Defendants' acts  
4 or omissions contributed to Plaintiff's injuries or damages, if at all.

5 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

6 92. The negligence of a third-party or parties was a superseding,  
7 intervening cause of Plaintiff's injuries.

8 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

9 93. Because Plaintiff's Complaint is couched in conclusory terms, these  
10 answering Defendants cannot fully anticipate all the affirmative defenses that  
11 may be applicable to the within action. Accordingly, the right to assert additional  
12 affirmative defenses, if and to the extent that such affirmative defenses are  
13 applicable, is hereby reserved.

14

15 WHEREFORE, Answering Defendants pray for judgment as follows:

16 1. That Plaintiff takes nothing by reason of his Complaint, and that  
17 judgment be entered in favor of Answering Defendants;

18 2. That Answering Defendants recover their costs of suit incurred  
19 herein, including reasonable attorneys' fees; and

20 3. For such other and further relief as the Court deems proper and just.

21

22 Dated: March 5, 2021

LAWRENCE BEACH ALLEN & CHOI, PC

23

24

By \_\_\_\_\_ /s/ Paul B. Beach

25

Paul B. Beach

26

Attorneys for Defendants

27

Undersheriff Paul Tanaka and

28

Captain William Carey

**DEMAND FOR JURY TRIAL**

Defendants Undersheriff Paul Tanaka and Captain William Carey hereby respectfully demand a trial by jury on all claims in the within action as provided by *Federal Rules of Civil Procedure*, Rules 38(a) and (b).

Dated: March 5, 2021

## LAWRENCE BEACH ALLEN & CHOI, PC

By \_\_\_\_\_ /s/ Paul B. Beach  
Paul B. Beach  
Attorneys for Defendants  
Undersheriff Paul Tanaka and  
Captain William Carey